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|                                       |   |                       |
|---------------------------------------|---|-----------------------|
| In re Application of                  | : |                       |
| Frankenback et al                     | : | DECISION ON           |
| Application No.: 10/031,481           | : |                       |
| PCT No.: PCT/US00/20274               | : |                       |
| Int. Filing Date: 06 July 2000        | : | PETITION              |
| Priority Date: 26 July 1999           | : |                       |
| Attorney's Docket No.: 7679           | : |                       |
| For: Stable Silicone Oil Emulsion ... | : | UNDER 37 C.F.R. 1.182 |
| Wrinkle Control                       | : |                       |

This decision is in response to applicants' "PETITION UNDER 37 C.F.R. 1.182 To Accept Affidavit for Change of Inventor's Name" filed on 29 July 2002 but previously filed on June 19, 2002 and considered a timely response based on the original certificate of mailing. Applicants has been charged the petition fee of \$130.00 to the Deposit Account No. 16-2480.

### **BACKGROUND**

On 06 July 2000, applicants filed international application No. PCT/US00/20274, which claims a priority date of 26 July 1999 and designates the United States. A copy of the international application was communicated to the USPTO from the International Bureau on 01 February 2001. A Demand was filed on 27 October 2000 within 19 months of the priority date. Accordingly, the deadline for entry into the national stage in the U.S. expired as of midnight of 26 January 2002.

On 18 January 2002, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no oath or declaration was filed at that time.

On 09 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within two months from its 09 April 2002 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

Application No.: 10/031,481

On 25 April 2002, applicants submitted an executed declaration of the inventors. In the declaration section pertaining to the sixth named inventor, the name Su Yon Chang appears; this name did not appear in the international application. In addition, the declaration has been signed by "Su-Yon Chang."

On 21 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/905) because the declaration was in not compliance with 37 CFR 1.497(a) and (b).

On 19 June 2002, applicants filed "Response to Notice of Defective Response" but according to applicants the reply was returned as undeliverable because it was damaged in the mail. On 29 July 2002, applicants mailed a duplicate copy of the previously submitted reply and it is considered timely because the original certificate of mailing for the reply is dated 19 June 2002. The instant petition includes an affidavit from Su-Yon Chang describing the events which led to the name change. Also the paper includes her signature with her former and current name.

### **DISCUSSION**

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

With respect to item (1), the petition fee has been charged to petitioner's deposit account.

With respect to item (2), petitioner has provided with the petition her signature signed under both names- Su-Yon ReFalo, and Su-Yon Chang, and setting forth the procedure whereby the change of name was effected. Therefore, item (2) has been satisfied.

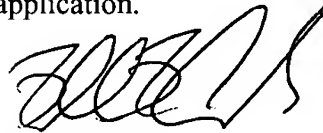
### **CONCLUSION**

For the reasons above, the petition the PETITION under 37 CFR 1.182 is **GRANTED**. The application will be granted a 35 U.S.C. 371 (c) date of **25 April 2002**.

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.



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